

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

SAHRA A. KOSAR,	)	
	)	
Plaintiff,	)	
	)	
v.	)	NO. 3:09-0739
	)	
UNITED STATES OF AMERICA,	)	Judge Trauger/Bryant
	)	
Defendant.	)	

TO: The Honorable Aleta A. Trauger

**REPORT AND RECOMMENDATION**

Defendant has filed its motion to dismiss the complaint as moot (Docket Entry No. 9), asserting that the United States Citizenship and Immigration Services has granted the relief sought by plaintiff when it approved her naturalization application.

After plaintiff failed to respond in opposition to the Government's motion to dismiss, the Court entered an order requiring plaintiff to show cause on or before January 5, 2010, why the Government's motion to dismiss should not be granted (Docket Entry No. 11). In response, plaintiff filed on January 4, 2010, a "Notice of Dismissal" (Docket Entry No. 14), stating that plaintiff has dismissed her case.

**Analysis**

Rule 41(a)(A) provides that a plaintiff may dismiss an action without a court order by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment. The Government has not filed an answer or a motion for summary judgment. The Government's motion to dismiss does not explicitly cite a particular rule of civil procedure pursuant to

which it is filed, but the accompanying memorandum demonstrates that the Government relies upon Rules 12(b)(1) and 12(h)(3) to argue that the Court no longer has subject matter jurisdiction of this case because the granting of plaintiff's naturalization application has eliminated the controversy before the Court (Docket Entry No. 10). In any event, plaintiff has not opposed this motion to dismiss, and, in fact, has filed her own notice of dismissal.

For the reasons stated above, the undersigned Magistrate Judge recommends that this case be dismissed without prejudice pursuant to Rule 41, Federal Rules of Civil Procedure.

#### **RECOMMENDATION**

For the reasons stated above, the undersigned Magistrate Judge RECOMMENDS that, in view of the plaintiff's Notice of Dismissal, that this case be DISMISSED without prejudice pursuant to Rule 41, Federal Rules of Civil Procedure.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days from service of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said objections shall have fourteen (14) days from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within fourteen (14) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986).

**ENTERED** this 7th day of January, 2010.

s/ John S. Bryant  
JOHN S. BRYANT  
United States Magistrate Judge